

9.3.4 DENMARK COMMUNITY RESOURCE CENTRE LEASE

File Ref:	LEA.37
Applicant / Proponent:	Denmark Community Resource Centre Inc.
Subject Land / Locality:	Portion of Lot 228 on Deposited Plan 217468
Disclosure of Officer Interest:	Nil
Date:	27 January 2021
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Acting Chief Executive Officer
Attachments:	9.3.4 - Draft Lease

Summary:

The Denmark Community Resource Centre Inc. (DCRC) is requesting the Council's approval to incorporate the former Denmark Over 50s Association's lease area into their lease.

Council is also asked to consider a new lease, should they agree to the larger leased premises.

Background:

Following the refurbishment of the former Denmark Hospital, Council entered into a five year lease with the DCRC, to be the predominant tenant of the Morgan Richards Community Centre. The DCRC also contributed \$285,000 towards the refurbishment. The initial term of the lease concluded on 31 October 2020 however, the DCRC have exercised their option for a further five year term.

Around the same time Council also entered into a five year lease for a portion of the building with the Denmark Over 50s Association. The Association has now dissolved and they have relinquished their lease.

The DCRC lease allows the organisation to hire out spaces to community groups, individuals and meeting rooms for some professional service providers.

In 2018, Council agreed to extend the DCRC's lease area to allow them to enter into a Memorandum of Understanding with Green Skills Inc. who now manage a community garden to the north of the main building.

Consultation:

Councillors were briefed on the DCRC's request at the Concept Forum held on 8 December 2020.

The Denmark Chamber of Commerce indicated late in 2020 that they might be interested in the space however, Officer's followed up on the request and there was still some uncertainty whether they would actually relocate if it was offered to them. Subsequently, the Shire has provided the Chamber with a short-term lease of the Visitor Centre building.

The Denmark Bridge Club have been seeking a permanent home for quite some time however, they have not specifically approached the Shire about the former Over 50s space.

The Denmark Community Resource Centre are happy with the draft lease.

Statutory Obligations:

LOCAL GOVERNMENT ACT 1995

Section 3.58 provides a local government with the power to dispose of property, including to lease.

LOCAL GOVERNMENT (FUNCTIONS & GENERAL) REGULATIONS 1996

Regulation 30(2)(b) excludes the requirement to adhere to disposal provisions if the disposal is to a body whose;

- (i) objects of which are of a charitable, benevolent, religious, cultural, educational, recreation, sporting or other like nature; and
- (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions.

The Shire purchased Lot 228 on Deposited Plan 217468 in 2016. Ministerial approval is not required in order to lease freehold land.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

Pursuant to their lease, the Council provide up to \$2,000 per annum in recognition that their management of the facility provides a valuable service for wider community benefit.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council's adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

B3.0 Our Built Environment

We have a functional built environment that reflects our rural and village character and supports a connected, creative, active and safe community.

B3.1 To have public spaces and infrastructure that are accessible and appropriate for our community.

B3.2 To have community assets that are flexible, adaptable and of high quality to meet the purpose and needs of multiple users.

B3.4 To manage assets in a consistent and sustainable manner.

L5.0 Our Local Government

The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government.

L5.2 To have meaningful, respectful and proactive collaboration with the community.

L5.3 To be decisive and to make consistent and well considered decisions.

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That there are other unknown community groups that would like to lease the room on a permanent basis.	Possible (3)	Insignificant (1)	Low (1-4)	Not Meeting Community expectations	Accept Risk

Comment/Conclusion:

According to the DCRC’s Constitution, their objects and purposes are as follows.

The association’s object is to pursue the following purposes:

- (i) To provide access to services and information that support capacity building within the community.
- (ii) To provide access to services and information to address issues of disadvantage within the community including but not limited to poverty, health, isolation and unemployment.
- (iii) Develop partnerships and business opportunities relevant to the needs of the community.
- (iv) Provide members of the community with access to and training in the use of existing and developing information and communication technologies.
- (v) Work with stakeholders, other Community Resource Centres and all tiers of government to increase the profile of the WA Community Resource Network.
- (vi) To ensure the association is effective and remains community owned and managed.

In the Author’s view, the objects of the DCRC meet the requirements for a disposal exemption under Regulation 30(2)(b) of the Local Government (Functions and General) Regulations 1996.

Since the initial lease was executed in 2015, the Shire has purchased the Reserve which results in the land description being inaccurate. The lease also refers to the DCRC’s relationship with the Denmark Over 50s Association’s use of Building 5 which is also no longer accurate. Officer’s recommend that the lease be re-written to make necessary corrections, provide for use of the former Over 50s space and incorporate the lease area variation which was done to provide for a community garden. A new lease will also provide them with an additional five years security of tenure.

The DCRC have indicated that if they are able to incorporate Building 5 into their lease area, they would like to be provided permission to sub-lease it in order to gain some additional income to support their activities. The DCRC’s intention would be to support not-for-profit groups or provide a space for local business incubation. The lease provides that they would be required to seek Council’s (the Lessor) consent and it is recommended that this clause remain. In addition, condition e) states;

- e) *Where incidental use of the facility involves commercial office, commercial (profit to an individual or business rather than a community group) activities;*

- i. *That these uses are infrequent and minor and/or of a business incubator environment.*
- ii. *That where such uses are more regular and/or ongoing (extends more than a year), that the rents, fees and charges proposed are structured to ensure that the Council and community is not seen as providing an unfair or subsidised facility that competes with private enterprise (a level playing field) and the Lessor permission will be sought who may impose conditions or limitations on that proposed use and or may refuse that use if in the opinion of the Lessor it is inconsistent with the principal community activities intended for the Morgan Richards Community Centre.*

The draft lease includes special condition e), albeit slightly reworded.

The Over 50s members used to maintain the waterwise garden (shown in image below) and the DCRC have requested that the Shire take over responsibility for it now that the Over 50s are longer there.



The DCRC have also requested that Council reconsider the requirement for them to maintain a five metre perimeter around the building as they are finding it difficult to do themselves. Most of the waterwise garden is also within the 5 metre perimeter.

The Shire currently maintains the majority of the grounds beyond the five metre perimeter including mowing and weed control.



ABOVE: Aerial of Lot 228 (2020)



Waterwise garden

5 metres

Lessees having responsibility to maintain a perimeter around a leased premises is a consistent clause in the Shire’s community group leases. For this reason, the Author has not recommended that the Shire take over this responsibility and notes that the Shire already mow all of the grassed areas within the lot.

In the Author’s view, the DCRC provide and facilitate important and valuable services for the people of Denmark including (from their website at <https://denmarkcrc.com.au/#services>):

- Government Services (Centrelink and Medicare agent, Dept of Veterans’ Affairs, access to Government information and employment services);

- Printing, photocopying, internet, scanning, audio/video transfer and more;
- Tech Support (training, troubleshooting, BeConnected program);
- Equipment hire (projectors and screens, PA systems, microphones and more);
- The Guide (free fortnightly local event publication);
- Events & Workshops;
- TransWA agent;
- Hardship support (food pantry, vouchers, financial counselling, shower and laundry facilities).

A new draft lease is recommended and is attached (Attachment 9.3.4). It is based on the Shire’s standard community group lease template for a period of five years, with a further five year option. In the Author’s view, the DCRC have proven their capacity and commitment to successfully manage the facility into the future.

The lease requires the lessee to seek the Shire’s consent should they wish to sub-let any part of the leased area. Any such request would be determined by the Council, noting that pursuant to clause 18 of the lease, consent would not be unreasonably withheld.

Voting Requirements:
Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.3.4
MOVED: CR GIBSON	SECONDED: CR BOWLEY
That with respect to the Denmark Community Resource Centre Incorporated Council:	
1. APPROVE their request to incorporate Building 5 (former Denmark Over 50s Association’s leased premises) into their lease area;	
2. DECLINE their request for the Shire to take over the responsibility of maintaining the five metre perimeter around the lease area, noting that it would be inconsistent with provisions of other community group leases and the Shire already maintain much of the reserve; and	
3. AUTHORISE the Shire President and the Chief Executive Officer to execute the new lease (as per Attachment 9.3.4).	
CARRIED UNANIMOUSLY: 8/0	Res: 170221

9.3.5 REMOVAL AND APPOINTMENT OF FIRE CONTROL OFFICERS

File Ref:	FIRE.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Shire of Denmark
Disclosure of Officer Interest:	Nil
Date:	13 January 2021
Author:	Lisa Sanders, Customer Service Officer
Authorising Officer:	David Schober, Acting Chief Executive Officer
Attachments:	Nil

Summary:

Council is asked to remove the former Community Emergency Services Manager (CESM) as a Fire Control Officer and appoint the Acting Community Emergency Services Manager (CESM) as a Fire Control Officer authorised within the entire Shire of Denmark.

Background:

Nil

Consultation:

Nil